

1       there a long time.

2               Q       Well, if it was from Mr. -- if Mr. Sanchez  
3       provided that information, why did you state, "I  
4       believe GGPR has evaporated" in a memo to Mr. Sanchez?

5               A       Perhaps I misspoke. Perhaps I was trying  
6       to reiterate to Mr. Sanchez they didn't seem to have  
7       a very strong presence in the city and county of San  
8       Francisco.

9               Q       And you were aware of that on March 8th?

10              A       I was. They had "Public Radio" after  
11       their name.

12              Q       So what does that imply? That if they had  
13       "Public Radio" after the name you would have been  
14       tracking them?

15              A       I try to be aware of public radio entities  
16       in our broadcast market.

17              Q       Okay. I'm now referring you to SFUSD  
18       Exhibit -- just one moment, please.

19                      MS. LEAVITT: Your Honor, if I can have  
20       just a moment, please.

21                      JUDGE SIPPEL: Sure. We can go off the  
22       record.

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1 (Whereupon, the proceedings in the  
2 foregoing matter went off the record at  
3 9:44 a.m. and went back on the record at  
4 9:47 a.m.)

5 BY MS. LEAVITT:

6 Q Okay. SFUSD Exhibit 4, which is the  
7 opposition to Petition to Deny that Mr. Sanchez filed  
8 on behalf of the San Francisco Unified School  
9 District.

10 MR. PRICE: Do you have that document?

11 BY MS. LEAVITT:

12 Q I reference you --

13 THE WITNESS: I don't think I do.

14 MS. LEAVITT: Oh, okay.

15 THE WITNESS: May I please see that?

16 MS. LEAVITT: Yes. Do you have --

17 MR. PRICE: I have my copy.

18 MS. LEAVITT: Yes. I'll tell you, it's  
19 page 54.

20 BY MS. LEAVITT:

21 Q Ms. Sanchez, where were you living in  
22 January --

1 A Ms. Sawaya.

2 Q Ms. Sanchez. (Laughing) I'm sorry.

3 A I'm Ms. Sawaya.

4 Q Yes, Ms. Sawaya. I knew that.

5 A Thank you.

6 Q I misspoke. I apologize. In January  
7 1998, where were you living?

8 A In January 1998?

9 Q Yes.

10 A I had just moved back to the Bay Area.

11 Q Do you read The San Francisco Chronicle?

12 A Actually, no. I read The New York Times  
13 daily.

14 Q You don't read the local newspaper?

15 A If I pick it up. It takes about 10  
16 minutes to go through.

17 (Laughter)

18 Q Well, do you recall seeing this article,  
19 which is about halfway down on the left side of this  
20 page?

21 MR. PRICE: Is there a page number?

22 MS. LEAVITT: Yes, page 54.

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1 JUDGE SIPPEL: This is on the opposition  
2 -- what are you referring to, page 54?

3 MS. LEAVITT: Yes, Your Honor, 54 of 86.  
4 It's behind --

5 JUDGE SIPPEL: I have it.

6 MS. LEAVITT: -- the first blue --

7 JUDGE SIPPEL: I have it.

8 MS. LEAVITT: Okay.

9 BY MS. LEAVITT:

10 Q That first paragraph after the little  
11 three blocks there about halfway down -- and I'm  
12 reading this -- "That purge of jazz at KALW 91.7 FM,  
13 more popular new age sounds have replaced it, is not  
14 the only thing going on at the public radio station.  
15 Staff members, seething over job postings issues, have  
16 hired a lawyer. They are preparing a license  
17 challenge for the FCC -- Federal Communications  
18 Commission. Dave Radlauer, who had a jazz program at  
19 KALW for 13 years said, 'I'm reluctant to say much,  
20 because I left the station on good terms.'"

21 Were you at all familiar in January 1998  
22 with GGPR?

1 A No, not really.

2 Q Did you know Mr. Radlauer?

3 A No.

4 Q Did you know of the license challenge to  
5 station KALW?

6 A No.

7 Q Okay. Thank you. Now, moving back to EB  
8 Exhibit 20, your March 8th cover memo --

9 A Yes.

10 Q -- looking at the third paragraph, reading  
11 the second sentence, you stated, "While I have yet to  
12 see a full financial accounting -- this being my sixth  
13 day on the job -- because the district does not  
14 generate monthly reports, I do not know that any size  
15 fine -- I do know that any size fine will hit us  
16 hard."

17 When you say "fine," what were you  
18 referring to by that term?

19 A A fine from the FCC.

20 Q And how did you come to suspect or  
21 speculate that a fine might be imposed?

22 A Mr. Sanchez had told me that in my initial

1 conversation with him.

2 Q And did he indicate why the FCC might fine  
3 KALW?

4 A No, he did not go into detail.

5 Q You didn't ask him?

6 A That was my initial conversation with him.

7 Q Was that your first conversation ever with  
8 Mr. Sanchez?

9 A No.

10 Q When was your first conversation with Mr.  
11 Sanchez ever?

12 A I believe, as I've tried to recollect,  
13 when I first met Mr. Sanchez that he would come to the  
14 National Public Radio board meetings. And from what  
15 I understand he used to be General Counsel for NPR.  
16 And in Member Services we were always asked to go to  
17 those board meetings and sit in on the board meetings  
18 to hear what the member stations had to say about  
19 National Public Radio.

20 Q So if you could put a year on the first  
21 time you met Mr. Sanchez, when would that be?

22 A I guess when I first started to work at

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1 National Public Radio in 1996.

2 Q And what kind of a relationship did you  
3 have with Mr. Sanchez?

4 A Purely somewhat of a hi, hello, how are  
5 you.

6 Q How often would you see him?

7 A He would attend conferences as well.

8 Q So how often would that be per year, let's  
9 say. How many times a year would you see Mr. Sanchez?

10 A Maybe I'd run into him twice a year.

11 Q Did you keep in contact any other way,  
12 through e-mails or cards or letters?

13 A No.

14 Q Did you speak to Mr. Sanchez before you  
15 took the job at KALW?

16 A No, I did not.

17 Q Okay. Returning back -- just a moment.  
18 So when did you learn that Mr. Sanchez was counsel for  
19 KALW?

20 A Pretty much as soon as I came on board.

21 Q You weren't aware of that before you  
22 started?

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1 A No, I wasn't.

2 Q In paragraph 3 of EB Exhibit 20, your  
3 March 8th cover memo to Mr. Sanchez, the third  
4 sentence you state, "Anything that can be done to  
5 argue the fact that the place was in physical and  
6 management chaos, and anything that can be done to  
7 assuage the FCC's fears that there is not still the  
8 case, please do so."

9 When you say that the -- reference to the  
10 station being in physical chaos, what was that  
11 reference to?

12 MR. PRICE: I just want to object. It  
13 wasn't read entirely properly, but the document speaks  
14 for itself.

15 JUDGE SIPPEL: So noted.

16 THE WITNESS: The Loma Prieta earthquake  
17 and them being rather itinerant until the new station  
18 was built.

19 BY MS. LEAVITT:

20 Q And what did you mean by "management  
21 chaos"?

22 A Probably what I was referring to was that

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1 they hadn't had a long-term general manager.

2 Q From when to when? When you say "long-  
3 term general manager," what do you mean by that?

4 A In public radio, oftentimes the general  
5 managers stay at their stations for 10, 20, 30 years.  
6 While they had had a long-term general manager, as I  
7 have come to find out during my years at KALW, during  
8 the years since the license challenge they were  
9 bringing on people it looked like almost about a year  
10 and a half they would stay.

11 Q And on March 8th, who were the different  
12 management that you're referencing?

13 JUDGE SIPPEL: Do you understand the  
14 question?

15 THE WITNESS: Could you please --

16 MS. LEAVITT: Sure.

17 THE WITNESS: Could you please repeat it?

18 BY MS. LEAVITT:

19 Q Well, you stated right now that you  
20 understood that since the 1997 challenge, I believe is  
21 what you're referencing, that there had been a series  
22 of managers.

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1 A Correct.

2 Q General managers. And I'm wondering if  
3 you know who they were. First of all, did you know  
4 who the different managers were?

5 A Well, when I entered, Mr. Helgeson had  
6 been the interim general manager. And prior to him  
7 was Michael Johnson.

8 Q Okay.

9 A And then, prior to Michael I believe it  
10 was Rose Levinson.

11 Q And how did you know that?

12 A It was pretty evident in some of the files  
13 that were left for the general manager. Michael had  
14 left some -- a few pages of notes. Rose's name was  
15 around.

16 Q Had Rose left a file with notes in it?

17 A She had left, of course --

18 Q How about Mr. Ramirez? Did he leave a  
19 file with notes in it?

20 A He left -- there was a file from Mr.  
21 Ramirez. Yes, there was.

22 Q And what was in that file?

1           A       Very precise directives of what needed to  
2 happen and what he had tried to tie up as he was  
3 exiting, and then what needed to happen basically on  
4 a day-to-day level, what was the situation with  
5 certain programs, etcetera.

6           Q       Did you review that file before you wrote  
7 this March 8th memo?

8           A       No.   Quite frankly, I didn't have the  
9 time.

10          Q       Did you review any files of previous  
11 managers during your first week there?

12          A       Probably Michael Johnson's, since he had  
13 been the most recent, although Mr. Helgeson was  
14 present there, and he had actually served as interim  
15 general manager. So he could brief me about where  
16 they were at with certain necessities.

17          Q       Okay. Thank you. Is Michael Johnson  
18 still affiliated with the station?

19          A       No, he is not.

20          Q       Do you know when he left?

21          A       Not exactly.

22          Q       What would you -- did he work for you, or

1 was he affiliated at the station any time during your  
2 tenure?

3 A No. He got a great job at KQED.

4 Q So he was gone by the time you arrived,  
5 then?

6 A Yes.

7 Q Okay. Moving on to another exhibit, which  
8 is your deposition testimony, which I believe is SFUSD  
9 Exhibit 18, page 376 of the -- those page numbers --  
10 376 refers to the pages in the upper right-hand corner  
11 of the deposition. I'm not sure how SFUSD might have  
12 paginated it.

13 This is your -- a transcript of your  
14 deposition that you gave to the FCC on September 28,  
15 2004. And before we even start to look at the  
16 document, did Dr. Ackerman give you any general  
17 guidance about being truthful and honest and  
18 completely candid with the FCC before you took your  
19 position?

20 A I think Dr. Ackerman relied on me to be  
21 truthful and candid before my deposition to the FCC.

22 Q Okay. Let's look at lines 7 to 21.

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1 MR. PRICE: Do you want the witness to  
2 read those lines?

3 MS. LEAVITT: Yes, please, out loud.

4 THE WITNESS: Question by Mr. Shook, "So  
5 this would have been around mid-March you would have  
6 looked at the KALW public file." Answer, "Exactly.  
7 I mean, I started to look at it in the very beginning,  
8 like my second week there, because I had three days  
9 off. After I started, I had a brief time off. I had  
10 already planned something, couldn't be at work, so it  
11 really got my feet on the ground the second week in  
12 March.

13 "I had all my keys and all that and was  
14 just trying to connect the dots with all this and  
15 trying to get movement, and Mr. Sanchez was game for  
16 the movement. Yes, you know, so he sent this to  
17 Jackie and I as a draft.

18 "And, you know, at first glance it seemed  
19 fine. It seemed like things were being answered,  
20 everything was in order, and that we were trying to  
21 get some movement around this issue. So we said,  
22 'That's great, Ernie. Send it off.'"

1 BY MS. LEAVITT:

2 Q Thank you. When you say in line 16  
3 through 17, "he," being Mr. Sanchez, "sent this to  
4 Jackie and I as a draft," what were you referencing?

5 MR. PRICE: I should advise the witness  
6 she can refer to the previous page if it's not clear  
7 from the question being asked what the document --  
8 what the question --

9 MS. LEAVITT: I'm sorry. Did I say page?  
10 I meant line number 17.

11 MR. PRICE: I understand. I'm just  
12 advising the witness that it starts --

13 MS. LEAVITT: Oh.

14 MR. PRICE: -- with the question that says  
15 this would have been around mid-March, and she can  
16 review the pages before if she --

17 MS. LEAVITT: Sure.

18 JUDGE SIPPEL: Are you trying to test her  
19 recollection, or do you want to just tell her what it  
20 was?

21 MS. LEAVITT: Oh, I see. Yes, I see what  
22 you're asking. Strike that, Your Honor. I'm sorry.

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1 I withdraw that question.

2 BY MS. LEAVITT:

3 Q I'm referring to lines 9 through 13 of  
4 page 376, the paragraph -- the lines that you just  
5 read. You testified that you took three days off  
6 after you started. You had a brief time off, that you  
7 had already planned something. What days off were you  
8 referring to?

9 A Friday, Saturday, and Sunday.

10 Q Do you normally work on Saturdays and  
11 Sundays?

12 A No. But as general manager, I'm kind of  
13 on call if the transmitter goes down. In some ways,  
14 the general manager, like the chief engineer, is on  
15 call. If programming screws -- excuse me, doesn't  
16 come down properly from the satellite, if a programmer  
17 doesn't show up -- in some ways, a general manager and  
18 a chief engineer of a radio station are always on  
19 call.

20 JUDGE SIPPEL: You'd better be careful,  
21 because we don't scramble here.

22 (Laughter)

1 JUDGE SIPPEL: I'm just --

2 THE WITNESS: Thank you, Your Honor.

3 (Laughing)

4 BY MS. LEAVITT:

5 Q But you said on line 12 that you couldn't  
6 be at work, and this was in reference to your looking  
7 at the KALW public file. So why would you have  
8 advised us that you wouldn't have been at work,  
9 implying that you were looking at the KALW public file  
10 and not available to look at the KALW file then?

11 MR. PRICE: Objection. Is the question  
12 whether she was at work for those three days? I guess  
13 I don't understand all the background.

14 MS. LEAVITT: Well, I think she wasn't at  
15 work. I think she said she wasn't at work Friday,  
16 Saturday, and Sunday.

17 MR. PRICE: Correct.

18 MS. LEAVITT: And so, I'm sorry, what is  
19 your question?

20 MR. PRICE: I guess I don't follow your  
21 question.

22 MS. LEAVITT: Okay. Let me rephrase it,



1 then.

2 JUDGE SIPPEL: Well, it's the witness that  
3 you have to satisfy. Ask her if she understands the  
4 question.

5 BY MS. LEAVITT:

6 Q Did you understand the question -- my  
7 question?

8 A No, I didn't.

9 Q Okay. Your response that you had taken  
10 three days off was in response to a question about  
11 your looking at the public file for KALW in mid-March.  
12 So I'm wondering, why would it be relevant that you  
13 had Saturday and Sunday off?

14 A I left town. It was my son's birthday.  
15 I had not looked at my calendar, unfortunately, before  
16 the deposition. I thought maybe I took a Monday,  
17 Tuesday, Wednesday off. I regret I did not refresh my  
18 memory with my March 2001 calendar. Otherwise, I  
19 would have been more precise with Mr. Shook.

20 MS. LEAVITT: Just a moment, Your Honor.

21 BY MS. LEAVITT:

22 Q I am referring to SFUSD Exhibit T-3, your

1 direct testimony, page 6. And I'm specifically  
2 referring to lines 1 through 7, and the response to  
3 the question of, "When did you start at KALW? And  
4 what were your priorities during the first few weeks?"

5 You testified at line 5 that, "I had given  
6 exactly two weeks' notice at my prior job and did not  
7 take any time off between positions. I did, however,  
8 negotiate in advance to take a three-day vacation  
9 beginning on March 9th to celebrate my son's  
10 birthday."

11 With whom did you negotiate to take off  
12 Saturday and Sunday?

13 A Ms. Jackie Wright.

14 Q And when did you negotiate that?

15 A When I had the interview with her, I had  
16 already rented the cabin at Lake Tahoe for my son's  
17 birthday, and I wanted to give her a heads up and ask  
18 -- it's a little rude to take a Friday -- a day off  
19 and be out of town when you first start a job, so I  
20 just wanted to make sure that that was okay.

21 Q A Friday, yes, that's one day. But you  
22 said you negotiated for a -- in advance to take a

1 three-day vacation, which implies that you negotiated  
2 for Saturday and Sunday. Did Ms. Wright advise you  
3 that she expected you to work on those days?

4 A No, she didn't.

5 Q Okay.

6 A I was telling her I wouldn't be around to  
7 be responsible for the station.

8 Q Okay. Thank you. Okay. Moving on to  
9 another exhibit, EB Exhibit 22.

10 MR. PRICE: It's going to be 22 in your  
11 bound volume.

12 THE WITNESS: Oh. I thought it was EB.

13 MR. PRICE: Oh, I'm sorry. You're right.

14 BY MS. LEAVITT:

15 Q This looks like an e-mail from Nicole  
16 Sawaya to Mr. Sanchez, with a copy to Jackie Wright,  
17 dated Tuesday, March 13, 2001, Subject: Please cc.  
18 Do you recall having drafted this e-mail?

19 A I don't recall exactly sitting at the  
20 computer and drafting it, but, yes, I must have  
21 drafted the e-mail. It is my e-mail.

22 Q Well, you have no reason to believe that

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1 this isn't your -- that you didn't draft this.

2 A Absolutely not.

3 Q Okay. You state, "Dear Ernie: Received  
4 your letter to Linda Blair today." What letter were  
5 you referencing?

6 A It probably was the draft which he had  
7 sent through Mr. Helgeson, because I didn't have an  
8 e-mail or --

9 Q Well, let me --

10 A -- something that he -- must have been the  
11 draft of the Letter of Inquiry response.

12 Q Okay. Well, this says it's a letter to  
13 Linda Blair, and let me refer you to EB Exhibit 16,  
14 which is a March 6, 2001, letter from the Sanchez law  
15 firm to Linda Blair, Chief, Audio Services Division,  
16 Mass Media Bureau, re KALW San Francisco, California,  
17 San Francisco Unified School District, with the file  
18 number. Do you recall seeing this letter?

19 A Yes.

20 Q This is the extension letter I think that  
21 we talked about yesterday.

22 A Yes.

1 Q And I see that you were copied on it.  
2 What did you do with this letter?

3 A Put it in the file.

4 Q Did you read it first?

5 A I must have.

6 Q Okay. You also state in EB Exhibit 22,  
7 you had a small request, "In the future, please cc Ms.  
8 Jackie Wright, Executive Director, SFUSD Office of  
9 Public Engagement," and you give the address. "She is  
10 my immediate boss at the district, and KALW has been  
11 placed in her department. Thanks."

12 Now, did you ask Mr. Sanchez in this  
13 letter -- or did you say anything in this e-mail,  
14 rather, to Mr. Sanchez on March 13th that you  
15 disagreed with his characterization of you in his  
16 extension request to the Commission in which he  
17 stated, "SFUSD wishes to involve this new general  
18 manager in all matters relating to KALW's 1997 license  
19 or renewal"?

20 A No.

21 Q All right. Now let's turn to EB  
22 Exhibit 35, which is the Sanchez invoices for May --

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1 dated May 1, 2001. And I'm looking at the first page.  
2 At the bottom of that page 1, it's got an entry  
3 3/15/2001, SMJ, which stands for Susan Jenkins.

4 A That's -- I'm sorry. Am I on the wrong  
5 exhibit? I have Exhibit --

6 Q I'm sorry. EB Exhibit --

7 A 35.

8 Q -- 35?

9 A Yes.

10 JUDGE SIPPEL: It's the Sanchez law  
11 firm --

12 THE WITNESS: That's not my EB 35.

13 JUDGE SIPPEL: It's a listing of legal  
14 advice, legal services that were rendered.

15 MS. LEAVITT: It's a three-page exhibit  
16 dated --

17 MS. REPP: Mr. Duncan may have -- it's  
18 easy to do.

19 JUDGE SIPPEL: You wore Mr. Duncan out  
20 yesterday.

21 MR. SHOOK: I tried.

22 JUDGE SIPPEL: But you won.

1 MR. SHOOK: I wouldn't say that yet.

2 (Laughter)

3 MS. LEAVITT: Yet.

4 BY MS. LEAVITT:

5 Q The last sentence on that first page  
6 indicates that Susan Jenkins reviewed memo and  
7 attachment from Ms. Sawaya and Mr. Helgeson for  
8 response to FCC re public file. And it looks like she  
9 billed a half hour. She references a memo and  
10 attachment from you and from Mr. Helgeson.

11 Did you send the Sanchez law firm any  
12 other memos other than the March 8, 2001, memos that  
13 we've identified and discussed as EB Exhibits 20 and  
14 21?

15 A No, I did not.

16 Q So she was referencing, then, that -- she  
17 must have been referencing, I would assume, the  
18 March 8, 2001, memoranda that you sent to Mr. Sanchez.

19 Okay. Turning to page 2 --

20 MR. PRICE: Was there a question?

21 BY MS. LEAVITT:

22 Q Do you disagree with that?

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1 A I don't disagree.

2 Q Okay. Thank you. Now, if we can just  
3 turn to page 2 of that same exhibit. Before we even  
4 start looking at page 2, though, regarding the --  
5 okay. I'm sorry. Back on page 1 on March 15, 2001,  
6 Ms. Jenkins referenced the memo and attachment from  
7 Ms. Sawaya and Mr. Helgeson. Was Mr. Helgeson  
8 involved in preparing the memo and attachment,  
9 March 8, 2001, EB Exhibits 20 and 21?

10 A I believe, as I've stated, he was giving  
11 me some part of the narrative. And perhaps he had  
12 actually pulled those ownership reports, those  
13 originals, which we were sent.

14 Q Why do you think -- were you aware of any  
15 separate writing that Mr. Helgeson might have crafted  
16 and provided to the Sanchez law firm?

17 A No, I was not aware.

18 Q Did he keep you --

19 A May I ask a question? Do you mean at this  
20 time period, or ever?

21 Q Yes, at this time period.

22 JUDGE SIPPEL: Well, let's make a



1 reference. Can you make a reference to a date that  
2 we're talking about?

3 MS. LEAVITT: Yes.

4 BY MS. LEAVITT:

5 Q On March 15th, Ms. Sawaya, 2001, were you  
6 aware of Mr. Helgeson's sending any memo and  
7 attachment to the Sanchez law firm regarding the FCC  
8 public file?

9 A Other than helping me bring the -- attach  
10 the enclosures for my March 8th memo, I was not aware  
11 of any other memo that Mr. Helgeson may have written  
12 to the Sanchez law firm.

13 Q Okay. Thank you. Now, referring to  
14 page 2 of this Exhibit 35, the first line reads,  
15 "3/16/2001, SMJ, Susan Jenkins, telephone conference  
16 with Ms. Sawaya," and it looks like it lasted about 15  
17 minutes. Do you recall what you and Ms. Jenkins  
18 discussed?

19 A I had never met Ms. Jenkins before. So it  
20 was probably a courtesy call, and she was introducing  
21 herself as the partner of Ernie Sanchez.

22 Q Did she mention at that time your